

REMARKS

Applicants note that this application is a continuation application based upon U.S. Application No. 09/300,063 filed April 27, 1999. Claims 1-38 are pending.

The last office action Office Action in U.S. Application No. 09/300,063 rejected claims 1-38 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,504,921 to Dev et al. (hereinafter "Dev") in view of U.S. Patent No. 6,490,620 to Ditmer et al. (hereinafter "Ditmer"). This rejection is now rendered moot.

The present application (recorded at Reel/Frame: 014141/0458) and Ditmer were both owned by WorldCom, Inc. at the time the applicants' invention was made. Ditmer, therefore, cannot preclude patentability under 35 U.S.C. § 103 in light of the American Inventors Protection Act of 1999 (hereinafter AIPA), effective for all applications filed on or after November 29, 1999. Section 103(c) of 35 U.S.C. states: "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The present continuation application was filed on December 3, 2003, which is after the November 29, 1999 enactment date of this provision of the AIPA. The effective filing date of April 27, 1999 of this application is before the December 3, 2002 issue date of Ditmer. Thus, Ditmer would qualify as prior art with respect to the present application only under subsection (e) of 35 U.S.C. § 102. Since the present application and Ditmer were both commonly assigned or subject to an obligation or assignment to WorldCom, Inc, Ditmer cannot be used to preclude patentability of the present invention under 35 U.S.C. § 103.

Accordingly, Applicants respectfully submit the application is in condition for allowance. Favorable consideration and prompt allowance are respectfully requested.

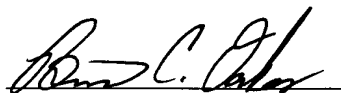
WorldCom Docket No. COS97083C1

NP Docket No. 742435-56

Serial No. Not Assigned

Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian C. Oakes", written over a horizontal line.

Brian C. Oakes

Registration No. 41,467

WorldCom Docket No. COS 97 083C1

NIXON PEABODY LLP

401 Ninth Street, N.W. Suite 900

Washington, D.C. 20004

Telephone: (202) 585-8000

Fax: (202) 585-8080